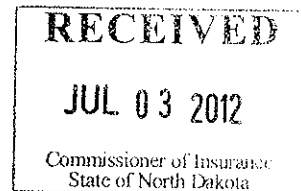




THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

June 20, 2012

The Honorable Adam Hamm
Commissioner
North Dakota Insurance Department
600 E. Boulevard Avenue
Bismarck, ND 58505



Dear Commissioner Hamm:

Thank you for your letter regarding the timing of state benchmark plan selection for the essential health benefits.

As you know, the Essential Health Benefits Bulletin, published on December 16, 2011, outlines the comprehensive, affordable, and flexible approach the Department of Health and Human Services (HHS) intends to pursue in rulemaking to define essential health benefits. Under this approach, a state would select a benchmark plan from a list of plan types provided by HHS to define essential health benefits in that state.

I appreciate North Dakota's commitment to selecting a benchmark plan that best meets the needs of its citizens and current marketplace. I also understand your concerns regarding benchmark selection in North Dakota and the timing of the legislative session. Benchmark selection in the third quarter of 2012 is intended to provide adequate time for potential qualified health plans (QHPs) to design benefit packages that offer the essential health benefits and for those QHPs to receive certification in the spring of 2013. To provide states with additional information about the small group market products in each state, HHS released a list of the top three small group market products in each state based on data collected from HealthCare.gov in June 2011. The Department released a list of the top three nationally available Federal Employee Health Benefit Program (FEHBP) plans at the same time.

As noted in the Frequently Asked Questions related to the Essential Health Benefits Bulletin, published on February 17, 2012, each state selects its benchmark plan by whatever process and whatever state entity is appropriate under state law. Our intended regulatory approach does not require a state to pass new laws to establish its benchmark plan, and it allows states to select existing plans. If a state does not select a benchmark plan, HHS intends to choose a state-specific default benchmark, which will be the largest plan by enrollment in the largest product in the state's small group market. Although the benchmark plan selected in 2012 applies for 2014 and 2015, HHS intends to revisit the benchmark options and approach for plan years starting in 2016.

While as a practical matter a benchmark needs to be proposed before 2013, HHS will continue to solicit and consider comments on this Bulletin and plans to issue a proposed regulation in the future, which will provide an opportunity to submit further comments. Please know we will carefully consider your concerns and all other comments we receive on the Bulletin.

Thank you for your interest in this important issue. Please do not hesitate to contact me if you have any further thoughts or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Sebelius". The signature is fluid and cursive, with the first name "Kathleen" written in a more compact, stylized manner and the last name "Sebelius" written in a more extended, flowing script.

Kathleen Sebelius